

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DENISE BONNICI,

Plaintiff,

USDC Case No. 2:12-cv-13528

v.

Judge Julian Abele Cook

SAM'S EAST, INC., a foreign profit corporation, individually and d/b/a SAM'S CLUB, SAM'S WHOLESALE CLUB and SAM'S CLUB STORE #6666

Lower Court Case No: 12-008894-NO

REDICO MANAGEMENT, INC., a domestic profit corporation, individually and d/b/a SAM'S CLUB, SAM'S WHOLESALE CLUB and SAM'S CLUB STORE #6666,

WAL-MART STORES, INC., a foreign corporation, individually and d/b/a SAM'S CLUB, SAM'S WHOLESALE CLUB AND SAM'S CLUB STORE #6666

WAL-MART STORES EAST, LIMITED PARTNERSHIP, a foreign limited partnership, individually and d/b/a SAM'S CLUB, SAM'S WHOLESALE CLUB and SAM'S CLUB STORE #6666

Defendants

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**DEFENDANTS' ANSWER TO PLAINTIFF'S
COMPLAINT, AFFIRMATIVE DEFENSES AND JURY DEMAND**

NOW COME Defendants, by and through their attorneys, PLUNKETT COONEY, Thomas P. Vincent and Gary W. Francis, and for their answer to Plaintiff's Complaint, state as follows:

1. In answer to ¶1, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

2. In answer to 2, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

3. In answer to ¶3, Defendants deny the allegations contained therein for the reason that same are untrue.

4. In answer to ¶4, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

5. In answer to ¶5, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

6. In answer to ¶6, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

7. In answer to ¶7, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

8. In answer to ¶8, these Defendants deny that it “created” the “slippery, transparent liquid substance” that Plaintiff complains of. Further, these Defendants deny that the “transparent liquid substance” was “allowed to accumulate on the floor, for an unreasonable length of time.” These Defendants neither admit nor deny that the “transparent liquid substance,” “was not readily visible.”

9. In answer to ¶9, Defendants deny the allegations contained therein for the reason that same are untrue and do not accurately reflect the law that is applicable to this matter.

10. In answer to ¶10, Defendants deny the allegations contained therein for the reason that same are untrue.

11. In answer to ¶11, Defendants deny the allegations contained therein for the reason that same are untrue.

12. In answer to ¶12, Defendants deny the allegations contained therein for the reason that same are untrue.

13. In answer to ¶13, Defendants deny the allegations contained therein for the reason that same are untrue.

14. In answer to ¶14, including subparagraphs a. through c., Defendants deny the allegations contained therein for the reason that same are untrue.

15. In answer to ¶15, including subparagraphs a. through f., Defendants deny the allegations contained therein for the reason that same are untrue.

16. In answer to ¶16, Defendants deny the allegations contained therein for the reason that same are untrue.

17. In answer to ¶17, Defendants deny the allegations contained therein for the reason that same are untrue.

18. In answer to ¶18, Defendants neither admit nor deny the allegations contained therein and leave Plaintiff to her strict proofs.

WHEREFORE, Defendants respectfully request that this Honorable Court dismiss Plaintiff's Complaint with prejudice and award costs, expenses and attorney fees so wrongfully incurred.

PLUNKETT COONEY

By: /s/Thomas P. Vincent

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DATED: August 13, 2012

AFFIRMATIVE DEFENSES

Defendants by their attorneys, Plunkett Cooney, Thomas P. Vincent and Gary W. Francis, hereby submit their affirmative defenses, as follows:

1. That the premise in question was maintained in a reasonably safe condition at all times relevant to this action.
2. Defendants did not know or have reason to know of any dangerous or defective condition referred to in Plaintiff's Complaint.
3. That Plaintiff has failed to state a cause of action upon which relief can be granted.
4. That the sole and proximate cause of any and all injuries and/or damages allegedly suffered by Plaintiff, are the result of her own conduct.
5. That the sole and proximate cause of any and all injuries and/or damages suffered by Plaintiff, are the result of her own contributory and/or comparative negligence.
6. That the proximate cause of any and all injuries suffered by Plaintiff are the result of the negligence of persons and/or entities other than Defendants.
7. That Plaintiff has failed to mitigate her damages.
8. That Plaintiff's claims are time barred in that the applicable statute of limitations has been exhausted.
9. That Plaintiff's claims are barred by the Doctrine of Laches in that some evidence may no longer be available or may be in an altered state, prejudicing and/or preventing Defendants from preparing their defense.
10. Defendants complied with the applicable standard of care at all times relevant to this matter.

11. To the extent Plaintiff seeks recovery from Defendants premised upon damages for medical care, rehabilitation services, loss of earnings, loss of earning capacity or any other economic loss, all or part of which have been paid or are to be paid by a collateral source, Defendants are entitled to have a reduction of that portion of any judgment pursuant to MCLA 600.6303.

12. Defendants assert their right to all collateral sources pursuant to MCL 600.6303.

13. Defendants complied with all duties applicable under federal law and, therefore, deny that they breached any duties owed to Plaintiff, resulting in her alleged injuries.

14. Plaintiff has not suffered from a serious impairment of a body function due to the accident complained of.

15. Defendants reserve the right to amend their affirmative defenses and add additional affirmative defenses as they become known and necessary during the course of discovery and prior to trial.

PLUNKETT COONEY

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DATED: August 13, 2012

JURY DEMAND

Defendants by and through their attorneys, Plunkett Cooney, Thomas P. Vincent and Gary W. Francis, hereby demand a trial by jury with regard to this matter.

PLUNKETT COONEY

By: /s/Thomas P. Vincent

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CERTIFICATE OF SERVICE

I, Thomas P. Vincent, hereby certify that on August 14, 2012, a copy of the foregoing Answer to Plaintiff's Complaint, Affirmative Defenses and Jury Demand was electronically filed with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and parties may access this filing through the Court's system.

PLUNKETT COONEY

By: /s/Thomas P. Vincent

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